

Office of the Secretary, Interior

§ 2.20

days of the date of the bill. This requirement does not apply if the requester is a State, local, or tribal government. The Debt Collection Improvement Act of 1996 will be used, as appropriate, to collect the fees (see Public Law 104-134).

[67 FR 64530, Oct. 21, 2002, as amended at 69 FR 58324, Sept. 30, 2004]

§ 2.19 When will bureaus waive fees?

(a) Fees for processing your request may be waived if you meet the criteria listed in paragraph (b) of this section and appendix D to this part. The burden is on you to justify entitlement to a fee waiver. Requests for fee waivers are decided on a case-by-case basis. The fact that you have received a fee waiver in the past does not mean you are automatically entitled to a fee waiver for every request you may submit, because the essential element of any fee waiver determination is whether the release of the particular documents sought in the request will likely contribute significantly to public understanding of the operations or activities of the Government. The bureau will rely on the fee waiver justification you have submitted in your request letter. If you do not submit sufficient justification, your fee waiver request will be denied. The bureau may, at its discretion, communicate with you to request additional information if necessary. However the bureau must make a determination on the fee waiver request within the statutory time limit, even if the agency has not received such additional information. In certain circumstances, a partial fee waiver may be appropriate, if some, but not all, of the requested records are likely to contribute significantly to public understanding of the operations and activities of the Government.

(b) Bureaus will waive fees (in whole or part) if disclosure of all or part of the information is in the public interest because its release—

(1) Is likely to contribute significantly to public understanding of the operations or activities of the Government; and

(2) Is not primarily in the commercial interest of the requester.

(c) If a bureau denies your request for a fee waiver, it will notify you, in writing, of the following:

(1) The basis for the denial, including a full explanation of why your fee waiver request did not meet DOI's fee waiver criteria (see paragraph (b) of this section and appendix D to this part);

(2) The name(s) and title(s) or position(s) of each person responsible for the denial;

(3) The name and title of the Office of the Solicitor attorney consulted; and

(4) A statement that the denial may be appealed within 30 workdays after the date of the denial letter to the FOIA Appeals Officer (see appendix A to this part) under the procedures in § 2.30.

§ 2.20 When will bureaus grant discretionary fee waivers?

(a) A bureau may waive fees at its discretion if a request involves:

(1) Furnishing a copy of a document that the bureau has reproduced for free distribution;

(2) Furnishing one copy of a personal document (*e.g.*, a birth certificate) to a person who has been required to furnish it for retention by the Department;

(3) Furnishing one copy of the transcript of a hearing before a hearing officer in a grievance or similar proceeding to the employee for whom the hearing was held;

(4) Furnishing records to donors with respect to their gifts;

(5) Furnishing records to individuals or private nonprofit organizations having an official, voluntary or cooperative relationship with the Department to assist the individual or organization in working with the Department;

(6) Furnishing a reasonable number records to members of the U.S. Congress, state, local, and foreign governments, public international organizations, and Indian tribes, when to do so without charge is an appropriate courtesy, or when the recipient is carrying on a function related to that of the Department and to do so will help to accomplish the work of the Department;

(7) Furnishing records when to do so is in conformance with generally established business custom (*e.g.*, furnishing

§2.21

personal reference data to prospective employers of former Department employees); or

(8) Furnishing one copy of a single record in order to assist the requester in obtaining financial benefits to which he or she may be entitled (*e.g.*, veterans or their dependents, employees with Government employee compensation claims).

(b) You cannot appeal the denial of a discretionary fee waiver.

§2.21 How will the bureau respond to my request?

(a) After all the criteria in §§2.8 and 2.10 have been met, the bureau will make a reasonable effort to search for records responsive to your request. In determining which records are responsive to your request, the bureau will include any records in its possession and control as of the date it begins its search. This will include searching for records in an electronic form/format, except where it would interfere significantly with the bureau's automated information systems.

(b) In response to your request, the bureau will do one of two things:

(1) Include the requested records with the response letter or notify you of how, when, and where the records will be made available; or

(2) Deny part or all of your request, except that the bureau may, consistent with Departmental policy, determine that a discretionary release is appropriate under the particular circumstances. Your request will be denied or partially denied only if one of the nine statutory exemptions listed in appendix E to this part applies to all or part of the records you have requested.

(c) Where a document contains both exempt and nonexempt material, the bureau will generally separate and release the nonexempt information. When disclosing a record in part, the bureau will indicate on the released portion of the record how much information was deleted, unless doing so would harm an interest protected by the exemption used to withhold the information. Further, if technically feasible, the amount of information deleted and the exemption used to withhold the information will be indicated where the deletion is made. If the non-

43 CFR Subtitle A (10-1-10 Edition)

exempt material is so intertwined with the exempt material that disclosure of it would leave only meaningless words and phrases, the entire portion may be withheld.

(d) If a bureau denies your request for records in whole or in part, the bureau's response will include:

(1) A reference to the specific exemption or exemptions authorizing the withholding;

(2) An explanation of the reason(s) for the denial;

(3) An estimate of the volume of information being withheld. The bureau will make a reasonable effort to estimate the volume of any records denied, or portions of records (*e.g.*, 100 pages, 4 Federal Record Center boxes, 1,000 kilobytes, etc.), unless such an estimate would harm an interest protected by the exemption used to withhold the information.

(4) The name(s) and title(s) of the person(s) responsible for the denial;

(5) The name and title of the Office of the Solicitor attorney consulted; and

(6) A statement that the denial may be appealed to the FOIA Appeals Officer (see appendix A to this part), in accordance with the requirements in §2.29.

(e) If records do not exist within DOI, cannot be located, are not reasonably described, or if a procedural issue remains unresolved (*e.g.*, a fee issue), the bureau will respond to you in writing, including the following information, as applicable:

(1) An explanation of the basis of the decision;

(2) The name(s) and title(s) of the person(s) responsible for the decision; and

(3) A statement that the matter may be appealed within 30 workdays of the date of the response, to the FOIA Appeals Officer under the procedures in §2.30.

(f) The bureau must consult with the Office of the Solicitor if it is considering withholding a requested record or denying a fee waiver.

(g) If any fees are due, the bureau will notify you in writing of the amount.

(h) All bureau responses will include the name and telephone number of a